



USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 10/17/2022

October 15, 2022

Honorable Judge Analisa Torres
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

via ECF e-file
cc: Torres_NYSDChambers@nysd.uscourts.gov

Re: *Hamilton v. Hernandez et al*, Case No. 1:22-CV-06172-AT
Motion to Extend the Time to Perfect Service on Defendant Daniel Hernandez

Dear Judge Torres:

I represent Plaintiff Warren Hamilton Jr. in the above reference case that was filed on July 20, 2022.

Since I was admitted pro hac vice to appear and represent Plaintiff in the reference case, I have worked diligently to locate and serve Defendant Hernandez to no avail. I have also provided status updates to the Court concerning Plaintiff's efforts to try and serve Defendant Hernandez. *See* ECF Docs 23-27 & 33. Despite, Plaintiff's best-efforts, Plaintiff has been unable to serve Defendant Hernandez who appears to be constantly on the move and surrounded by security.

Accordingly, on September 23, 2022, Plaintiff filed a motion and memorandum in support of alternative service on Defendant Hernandez by and through Attorney Robert Meloni. *See* ECF Doc 34 & 35.

On October 7, 2022, Attorney Robert Meloni filed a response with this Court, explaining that he no longer represents Mr. Hernandez, that he is withdrawing from every federal and state case that he represents Mr. Hernandez in, that Mr. Meloni does not have any way of contacting Mr. Hernandez, that Mr. Meloni does not know Mr. Hernandez current or last-known address, that Mr. Hernandez does not have an email address, that Mr. Hernandez does not have a business attorney, business manager, or personal manager, and that therefore the proposed alternative service on Mr. Meloni would not give Mr. Hernandez notice of the present action. *See* ECF Doc 36.

Accordingly, given that personal service on Defendant Hernandez has become even more frustrated by Mr. Meloni's withdrawal as counsel and inability to communicate with Defendant Hernandez, Plaintiff has amended his motion for alternative service and requested that the Court now allow for alternative service on Defendant Hernandez by serving Defendant Hernandez's probation officer, United States Probation Officer Sandra A. Osman of the Southern District of

New York. *See* ECF Docs 41 & 42. For the reasons given in Plaintiff's amended motion for alternative service, such proposed service is reasonably calculated to provide quick and sufficient notice to Defendant Hernandez of this present action. *Id.*

Nevertheless, pursuant to Fed. R. Civ. P. 4(m), Plaintiff is required to serve Defendant Hernandez within 90 days after the complaint is filed (i.e., by October 18, 2022) or else the Court must dismiss the action against Defendant Hernandez without prejudice. "But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period." *See* Fed. R. Civ. P. 4(m).

For the reasons given in Plaintiff's amended motion for alternative service, Plaintiff has clearly shown that Plaintiff has been working diligently to try and locate and obtain service on Defendant Hernandez to no avail. *See* ECF Docs 41 & 42. Therefore, Plaintiff has good cause to request that an extension be granted for additional time to serve Defendant Hernandez.

Accordingly, Plaintiff makes this first request for the Court to extend the time for Plaintiff to perfect service on Defendant Hernandez. Plaintiff does not believe this letter motion to be opposed by Defendants TenThousand Projects, LLC or UMG Recordings, Inc. as Attorney JoAn Cho for Defendant UMG Recordings, Inc. has told me that she would like Defendant Hernandez to be served and made part of Plaintiff's action before the proceedings before this Court continue.

As mentioned, Plaintiff has filed an amended motion for alternative service on Defendant Hernandez by serving United States Probation Officer Sandra A. Osman. *See* ECF Docs 41 & 42. Thus, upon the Court ruling to grant Plaintiff's amended motion for alternative service, Plaintiff could quickly work to get Defendant Hernandez served by serving United States Probation Officer Sandra A. Osman, who would in turn inform and notify Defendant Hernandez that such service has occurred and that this action has been filed against him.

Plaintiff's request for an extension of time to serve Defendant Hernandez is not sought for delay, but so that justice can be done and the proceedings before this Court can move forward efficiently and without any further delay.

Therefore, Plaintiff prays that this Court extend the time for Plaintiff to perfect service on Defendant Hernandez, so that upon the Court's decision to grant Plaintiff's amended motion for alternative service on Defendant Hernandez by serving United States Probation Officer Sandra A. Osman, service on the Defendant Hernandez will be perfected.

GRANTED. Plaintiff's deadline for serving Defendant is extended until **December 18, 2022**.

SO ORDERED.

Dated: October 17, 2022

New York, New York



ANALISA TORRES
United States District Judge